

Lowell Zoning Board of Appeals Minutes

November 28, 2022 at 6:30 P.M.

Note: These minutes are not completed verbatim. For further detail, contact the Division of Development Services, 375 Merrimack Street, Lowell, MA or refer to video recordings available online at www.LTC.org.

Members Present: Chairman Pech, Vice Chair Callahan, Member McCarthy, Member Briere, Member Procope, Member Hovey

Members Absent: None

Others Present: Francesca Cigliano, Senior Planner

The following represents the actions taken by the Zoning Board of Appeals at the 11/28/2022 meeting. This meeting was held in the City Council chambers. However, due to the COVID-19 pandemic, attendees had the ability to participate via Zoom as permitted by the Governor's 3/10/2020 emergency order to suspend certain provisions of the Open Meeting Law.

Chairman Pech called the meeting to order at 6:30 PM

I. Continued Business

ZBA-2022-46

Petition Type: **Variances**

Applicant: **House of Hope, Inc.**

Property Located at: **35 Varnum Avenue 01854**

Applicable Zoning Bylaws: **Sections 5.1, 5.2.2, 5.3.1, and 6.1**

Petition: **House of Hope, Inc. has applied to the Lowell Zoning Board of Appeals seeking Variance approval to construct an 8-unit apartment building at 35 Varnum Avenue. The property is located in the Traditional Neighborhood Single Family (TSF) zoning district. The project requires Zoning Board approval of variances for minimum lot area per dwelling unit, minimum usable open space per dwelling unit, maximum stories, maximum height requirement, and maximum front yard setback under Section 5.1, minimum off street parking spaces under Section 6.1, the construction of more than one primary residential dwelling structure on a lot under Section 5.2.2, relief from the landscaped open space requirement under Section 5.3.1, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

Deb Chasse, House of Hope

Jacob Taylor, Applicant's Attorney

Cliff Boehmer, Davis Square Architects

Speaking in Favor:

Harry

Harry said that this is a democracy not an autocracy.

Connie Hogswell, 128 Warren Street

C. Hogswell said that she is on the Board for House of Hope. She is impressed by how much House of Hope has adjusted their plans. There will be eyes on any changes to the development in the future because they will be required to apply for building permits.

Speaking in Opposition:

Tracy Jenness

T. Jenness said that that she was impressed that they had listened to concerns. Doubt that this would be considered if it were a commercial developer. Respect and support the House of Hope. Have been here multiple times for this project. Important to respect the zoning code when making decisions.

M. Ramos, 14 Clinton Ave

M. Ramos said that they got over 100 signatures of people opposing the project. Mailed to the City Council. Concerned about spot zoning. It's a huge project and I could not find one person who would support it.

Patricia Hanlon, 8 Clinton Ave

P. Hanlon said that it is too big. 8 units. What they have there is enough.

Curtis Lemay, 40 Roberts Street

C. Lemay said he is against it. He is concerned about fire apparatus. Neighborhood wants to be involved.

Discussion:

G. Procope appreciates House of Hope making adjustments for neighbors. There is still a lot of opposition. He is not sure if the project will pass the neighbors at all because it seems like everything that the House of Hope tried to do is shot down. Just looking from the site itself and the plan, seems like a plausible plan. There is some concerns that quality of life is what people are looking for. It seems like it may be disrupting that portion of it. From a zoning/planning perspective, looks like there were adjustments made to minimize impact. Board supported talking to neighbors to get buy-in. Still would like the landscaped open space calculation confirmed. C. Boehmer confirmed that there would be 51.8% landscaped open space in the front yard area.

D. Chasse said that she had a good faith meeting with neighbors. It was a difficult meeting. Every issue the neighbors have put before us we have done our best to address. There were attacks on our character. Comments that I would build on a cemetery if I could. Not a cooperative spirit either way.

I was hurt. Have been doing this work for 40 years. Run a large shelter organization. I did not ask them to come back. Got team together and got creative, flexible, and responsive to the concerns we heard.

M. Briere asked whether the plans were labelled classroom area in the first set of plans. Was it labelled on the plans? D. Chasse said it may have been on the floor plans. M. Briere said he sees this as too dense of a project and believes it violates the spirit of the zoning ordinance.

D. McCarthy sees a lot of constructive modifications that have been made. Won't see anything other than landscaping and fence. Down to three variances. Would like to understand parking a little bit. Much better use of the space than a single family house. In his opinion, would condition no access via parcel to Clinton Ave. Feels that this is a great opportunity to not develop a large single family structure, but instead give back to the community. Steps have been taken to mitigate concerns. Can see them developing best scenario possible to develop this site.

S. Callahan said he appreciates the work House of Hope has done. Have had concerns since the project came forward. Do appreciate that they went back to the drawing board and brought back revised plans. Main concern was whether or not two structures could be put on there. Does add a social benefit to the community by housing people who are homeless.

T. Hovey appreciates the changes and asked whether it was possible to internally access both buildings from the classroom area.

V. Pech said that House of Hope had gone back to the drawing board to try to get consensus. He is disappointed that they did not reduce the size. It is a big compromise. He thinks the public benefit outweighs the concerns. Will have on-site staffers. Will vote in support with one condition to restrict access to/from Clinton Ave.

S. Callahan suggested putting up a sign adjacent to Clinton Ave restricting access.

Motion:

D. McCarthy motioned to approve the variances with the following conditions:

1. No vehicular or pedestrian access to/from Clinton Ave to be reinforced with signage.

Seconded by S. Callahan and passed (4-1) with Member Briere voting no.

II. New Business

ZBA-2022-56

Petition Type: **Variance**

Applicant: **William Renaud**

Property Located at: **105-111 Martin Street 01854**

Applicable Zoning Bylaws: **Section 5.1; Section 6.1**

Petition: **William R. Renaud** has applied to the Zoning Board of Appeals for Variance approval at **105 & 111 Martin Street**. The applicant proposes to split the two lots for zoning purposes, and construct a new single-family home on the 105 Martin Street lot. The subject properties are located in the Traditional Two-Family (TTF) zoning district. The 105 Martin Street lot requires Variance approval per Section 5.1 of the Lowell Zoning Ordinance for relief from the minimum frontage, minimum garage front yard setback, and minimum lot width requirements, and per Section 5.3.1 for relief from the minimum landscaped open space requirement, and any other relief required under the Lowell Zoning Ordinance. The 111 Martin Street lot requires Variance relief per Section 5.1 for relief from the minimum frontage, minimum side yard setback, minimum lot area, minimum lot area per dwelling unit, and minimum lot width requirements, and per Section 6.1 for relief from the maximum curbcut requirement, and any other relief required under the Lowell Zoning Ordinance.

On Behalf:

George Theodorou, Applicant's Attorney

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

None

Motion:

D. McCarthy motioned to continue the petition to the January 9, 2022 ZBA meeting. The motion was seconded by M. Briere and passed unanimously, (5-0).

ZBA-2022-57

Petition Type: **Variance**

Applicant: **Henry Donaldson**

Property Located at: **270 Christian Street 01850**

Applicable Zoning Bylaws: **Section 5.1**

Petition: **Henry Donaldson** has applied to the Zoning Board of Appeals to divide the lot at **270 Christian Street** and construct a new single family home. Lot A will have the existing single family home. Lot B will be the site of the new single family home. The property is located in the Traditional Single Family zoning district. The proposal requires a Variance for Lot B under Section 5.1 for minimum lot size, and any other relief required under the Lowell Zoning Ordinance.

On Behalf:

Henry Donaldson, the Applicant

Speaking in Favor:

None

Speaking in Opposition:

Neil Flint, 205 10th Street

N. Flint said he does not see anything that qualifies it for a special hardship. It is undersized. Property has more than 20 mature trees. Losing this many mature trees is not good. What is the intent of zoning here? Plan didn't address landscaping. Petitioner is proposing larger home which overpowers others in the neighborhood.

Mike Holmes

M. Holmes said that they have already had a developer develop around the area. Will diminish quality of life in Christian Hill.

Ron Lassaud, 19 Kerry Street

R. Lassaud said he does not understand how he can put the house there. In winter, with snow, it will be hard for people up there.

Discussion:

M. Briere said he is concerned about the size of the proposed dwelling. The lot size fits the neighborhood but the beautiful home being shown deviates from the character of the neighborhood. Too large for the existing neighborhood.

D. McCarthy said he would like the landscaping plan to show many trees are being preserved.

H. Donaldson said he could keep the trees.

D. McCarthy said he would want to see him keep a minimum of 3 trees and work with DPD on a landscaping plan. D. McCarthy also noted that the floor plans do not match the site plan.

S. Callahan said he appreciates the additional information. He noted losing trees is an issue but adding more housing is beneficial. Did get information regarding outstanding litigation. Did extra research and looked on the Registry of Deeds. It seems clear that H. Donaldson is the title holder.

H. Donaldson said it is in front of the judge right now.

T. Hovey said the floor plans and plot plan do not match.

G. Procope said he would like to see a landscaping plan. Trees are very important and he would like to see minimum impact. He thinks it is a viable project but would like to see a more complete application.

V. Pech said this project has a lot of merit. Did have concerns with some of the legal issues but now feel comfortable moving forward with a vote.

Motion:

D. McCarthy motioned to approve with the following conditions:

1. The applicant shall submit a landscaping plan prior to applying for a building permit that shows at least three (3) trees preserved;
2. The applicant shall submit revised floor plans and site plan prior to applying for a building permit that shows the entrance to the garage off of Kerry Street; and
3. The applicant shall submit a revised site plan showing that Lot A and Lot B are 6,300 sq. ft.

The motion was seconded by G. Procope and passed unanimously, (5-0).

ZBA-2022-59

Petition Type: **Variances**

Applicant: **Dylan Lee**

Property Located at: **19 Court Street 01852**

Applicable Zoning Bylaws: **Section 5.1**

Petition: Dylan Lee has applied to the Zoning Board of Appeals to divide the lot at 19 Court Street and construct a new two family home. Lot A will be the site of the existing three family home. Lot B will be the site of the new two family home. The property is located in the Traditional Two Family zoning district. The proposal requires Variances for Lot A under Section 5.1 for: minimum lot size, minimum usable open space per dwelling unit, and lot area per dwelling unit, Variances for Lot B under Section 5.1 for: minimum lot size, and minimum lot area per dwelling unit, and any other relief for both lots required under the Lowell Zoning Ordinance.

On Behalf:

John Cox, Applicant's Attorney

Speaking in Favor:

John McNeil, 23-27 Court Street

J. McNeil said that they live in a tight-knit neighborhood. Doesn't see any opposition from anyone in the neighborhood. Would be good for the neighborhood. Just a vacant lot right now.

Speaking in Opposition:

None

Discussion:

D. McCarthy said there is a lot of paving. Are you proposing any green space?

M. Hamor said yes. Proposing green space to replace some existing pavement. D. McCarthy said that trees are not shown on the plan nor is grass. Substantial number of mature trees on back edge and front edge. M. Hamor said they could add shade trees along the front of the new house but it would be difficult in front of the existing house. D. McCarthy said three new shade trees would be terrific.

J. Cox said they could work with DPD on a landscaping plan.

T. Hovey said this is a good project that would add housing to the city.

G. Procope said he is not a fan of stacked parking but they are making extra effort by providing greenspace and trees.

M. Briere said the proposal would certainly revitalize a vacant lot. Win-win.

Motion:

D. McCarthy motioned to approve the variances with the following conditions:

1. Lot 1 will have stacked parking dedicated to individual units; and
2. Lot 1 will have no less than 1 street tree; lot 2 will have no less than 2 street trees.

S. Callahan seconded the motion and it passed unanimously, (5-0).

ZBA-2022-60

Petition Type: **Special Permit**

Applicant: **Nguyen & Sons LLC**

Property Located at: **915 Pawtucket Street 01851**

Applicable Zoning Bylaws: **Section 12.1(h)**

Petition: **Nguyen & Sons LLC has applied to the Zoning Board of Appeals to convert existing second floor space to a second residential unit. There are currently two commercial uses on the first floor, and one residential unit on the second floor. The property is located in the Regional Retail zoning district. It requires a Special Permit under Section 12.1.h to have two residential units above a legal non-residential ground floor use, and any other relief required under the Lowell Zoning Ordinance.**

On Behalf:

Ian Ainslie, Applicant's Engineer

A. Ainslie noted that two new units will be on the second and third floor.

Speaking in Favor:

None

Speaking in Opposition:

None

Discussion:

S. Callahan said he is confused about what has been submitted. The floor plans have no dimensions.

T. Hovey said impacts on traffic would be minimal.

G. Procope said that the proposal makes a lot of sense and he does not oppose.

M. Briere noted that the Building Commissioner had stated that the building would require a full sprinkler system.

D. McCarthy said the proposal makes sense. It is a great use of the property.

Motion:

D. McCarthy motioned to approve the Variances with the following conditions:

1. The applicant is to provide dedicated residential parking on-site.

The motion was seconded by G. Procope and passed unanimously, (5-0).

III. Other Business

Minutes for Approval:

11/14/2022 Meeting Minutes

D. McCarthy motioned and G. Procope seconded the motion to approve the meeting minutes. The motion passed unanimously, (5-0).

D McCarthy discussed 150 Wood Street, Bauer's House. When approved - stipulated that property would be maintained by owners. Was found by former Director of Development Services Eric Slagle that this condition was not enforceable because it is not in a Historic District. Went by the property. Broken windows, missing boards, not painted. Not in good shape. Oldest house in the city. Would not have approved without applicant maintaining it. Suggesting what we can do to revisit approval and come up with a way to ensure that the applicant maintains oldest house in Lowell.

F. Cigliano said she would schedule administrative review site visits and recommended requesting a law opinion regarding Bauer's House. Or, can contact health inspectors to report minimum maintenance violations.

The Board said that they would discuss whether or not to request a law opinion at their next meeting.

D. McCarthy motioned to adjourn, seconded by M. Briere. The motion passed unanimously, (5-0). The time was 9:27PM.